#### A Message from Our **Staff Attorney**

By Evan C. Bjorklund, Staff Attorney



One of the mandates of MOD is to provide technical and legal assistance to Executive Branch agencies and local Commissions on Disability (CODs), especially when there is a change to disability related laws. CODs advise and assist municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities. Recently, the Massachusetts Open Meeting Law,

which guides how public meetings must operate, was amended to aid CODs.

As of April 7, 2015, CODs can decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. Prior to this amendment, CODs had to seek approval from their respective mayor or city council prior to allowing remote participation. Now that this barrier has been removed, CODs, which are statutorily comprised of mostly persons with disabilities, are more easily able to complete their business.

However, any public body using remote participation during a meeting must ensure that the following minimum requirements are met: 1) A quorum, including the chair or, in the chair's absence, the person chairing the meeting, must be present; 2) Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and 3) All votes taken during a meeting in which a member participates remotely must be

More recently, another substantive change was made to the Open Meeting Law and it is effective as of July 1, 2015. In short, if a COD has adopted remote participation (see above), a quorum of the Commission does not need to be physically present at the meeting location, although a guorum of members participating, remotely or in person, must still take place and the chair must be physically present at the meeting location. The Attorney General's FAQ on the Open Meeting Law further explains this amendment:

We are confident that these amendments will facilitate more meetings for local CODs throughout the Commonwealth.

"However, a local commission on disability must still provide a physical meeting location where interested members of the public may attend and hear the discussion by the body. Additionally, the commission's chair, or the person chairing the meeting in the chair's absence, must be present at the meeting location. This means that if the chair wishes to participate remotely, he or she may do so. but may not then chair the meeting. Finally, note that while the law requires that only one member of a local commission on disability (the chair) be physically present at the meeting location, a guorum of the commission must still participate, remotely or in person, for a "meeting" to occur."

Please contact our office should you have any questions regarding these changes to the Open Meeting Law.

DISCLAIMER: Note that the Attorney General is ultimately responsible for interpretation and guidance on this issue. As such, we may refer you to them for guidance depending on the

#### **Jeffrey's Access Corner**

By Jeffrey Dougan

"Jeffrey's Access Corner" will be a recurring segment in our newsletter that will discuss specific topics related to architectural features that can be found in the accessibility codes that are required in Massachusetts. I hope you will find this interesting.

For my inaugural entry into what I hope will be a continuing saga explaining common architectural access related topics: I wanted to spend some time discussing automatic door openers. This is a very common topic that I get asked about. To paraphrase Shakespeare. "Are automatic door openers required or not required at entrances?"

Well, like anything, there are a couple of answers depending on the specific situation. In a perfect world, if an entrance is built compliant with both the Massachusetts Architectural Access Board's rule and regulations (MAAB) and the Americans with Disabilities Act Architectural Design Standards, they would not be required. For example, if the door has the appropriate weight, maneuvering clearances, hardware, width, and level

landings, the code would not require an automatic door opener be installed.

This is where it gets a little complicated. The

MAAB would require a variance if any of the above features could not be built compliant. Often times, to mitigate some of those issues, automatic door openers are ordered by the Board to be installed. However, if a pro-

ject is having difficulty complying with the pull or

617-727-7440.

push side clearances, the space needed to get to and open the door, or the actual weight of the door, automatic door openers can be installed to mitigate those issues without the need for a variance from the MAAB.

I personally like when designers use automatic door openers at entrances. It not only helps people who have difficulty opening the door due to a disability, but it also helps everyone: a parent pushing a stroller, a person carrying groceries, a person with limited upper body maneuverability, etc. Automatic door openers are useful to everyone.

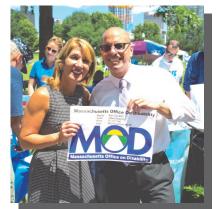
#### From the Director's Desk

By David D'Arcangelo

Public services for Persons with Disabilities have come a long way in

the past 25 years since the signing of the Americans with Disabilities Act in 1990. But it is also important to recognize how far persons with disabilities have come since the inception of disability policy. Some of the first laws specifically directed at Persons with Disabilities came nearlv 100 years ago.

The Smith-Fess Act, which is also known as the Civilian Vocational Rehabilitation Act (Public Law 236), was one of the principal pieces of public policy that Persons with Disabilities, the foun-



Lt. Governor Karyn Polito and MOD Director helped set up service systems for D'Arcangelo at ADA25 Celebration in Boston

dation of which is still in place today. Just think, during the first year of the Vocational Rehabilitation program in 1920. Congress approved \$750,000, which then needed to be re-authorized for following years. Compare that with the nearly \$4billion dollars that is spent annually on Voc. Rehab services and we can appreciate just how far the public commitment has come for training and preparing Americans with disabilities for employment.

### A Brief History of Disability Rights in the U.S.

1972, the first Independent Living (IL) Center is founded by disability activists led by Ed Roberts, "the Father of IL," in Berkley, CA.

1977, regulations implementing Section 504 of the Rehabilitation Act of 1973 are signed into law, extending civil rights to people with disabilities under the Act.

Ed Roberts, -FoundSF.org

### ...In honor of Disability History Month in October

If there is a topic you would

like discussed, please let me

know. You can reach me at

jeff.dougan@state.ma.us or

1990, the Americans with Disabilities Act is signed into law by President George W.H. Bush. The wide-ranging civil rights law afforded people with disabilities protection from discrimination in employment, state and local government programs, places of public accommodation, and telecommunications companies.

Be it enacted by the Senate and House of Represe United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. (a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

The Americans with Disabilities Act of 1990

3

1999, the U.S. Supreme Court rules that segregation of people with disabilities is discriminatory when integration is an appropriate option in the landmark Olmstead v. L.C.

2010. ADA Standards for Accessible Design created enforceable minimum accessibility standards for newly constructed or altered facilities.

1935, President Franklin D. Roosevelt signs the Social Security Act into law, establishing an income for Americans unable to work, including people with disabilities.

1920. The Smith-Fess Act

creates the Vocational

Rehabilitation Program for

people with disabilities.



The 1950s brought about the

barrier-free movement.

of national "barrier-free"

building standards.

resulting in the establishment

1968, the Architectural Barriers Act requires that all facilities designed, built, altered or leased by the federal government be accessible to the public.

1975, the Education for All Handicapped Children Act (EAHCA), later renamed the Individuals with Disabilities Education Act (IDEA) in 1990, is signed into law, requiring public schools to provide equal access to education to students with disabilities.

1988, protection from discrimination in housing under the Fair Housing Act is expanded to prohibit discrimination based on disability status.

"And now I sign legislation which takes a sledgehammer to another wall, one which has for too many generations separated Americans with disabilities from the freedom they could alimpse, but not grasp... we will not accept. we will not excuse, we will not tolerate discrimination in America." —George W.H. Bush at the signing of the ADA

1998, the Rehabilitation Act of 1973 is amended to add Section 508, requiring federal agencies to make electronic information technology accessible to ensure equal access to information.

2008, the ADA Amendments Act of 2008 clarifies and broadens the definition of "disability," facilitating enforcement of rights under the

By Rita DiNunzio

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### Fall 2015 Calendar



National Preparedness Month, Sight-Saving Month, Brain Aneurysm Awareness Month

National Preparedness Month, Sight-Saving Month, Brain Aneurysm Awareness Month					
<b>2</b> World War II Commemoration Day	<b>7</b> Labor Day	Patriot Day	14-20 Alzheimer's Awareness Week	MOD Disability Summit	18-20 Abilities Expo Boston
WEDNESDAY	MONDAY	FRIDAY	MON-SUN	FRIDAY	F, SAT & SUN
20-26 Cystic Fibrosis Week SUN-SAT	Myositis Awareness Day MONDAY	26 Eunice Kennedy Shriver Day SATURDAY	Disability History Month, National Disability Employment Awareness Month, Head Injury Awareness Month, Breast Cancer Awareness Month		
<b>4</b> Independent Living Center Day	<b>5-11</b> Employee Involvement Week	<b>12</b> Columbus Day	<b>15</b> White Cane Safety Day	19-25 Male Breast Cancer Awareness Week	21-22 MOD CAM Training Newton
SUNDAY	MON-SUN	MONDAY	THURSDAY	MON-SUN	WED&THUR
31	NOV Thrombosis Awareness Month, Lung Cancer Awareness Month				
Halloween SATURDAY	9-15 Massachusetts Hospice Week	U.S. Marine Corps	Veterans Day	<b>26</b> Thanksgiving Day	<b>Happy</b> Thanksgiving
	MON-SUN	TUESDAY	WEDNESDAY	THURSDAY	



# **Massachusetts Disability Quarterly**

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### **MOD Receives Supplier Diversity Award**

By Michael Dumont

On June 12, 2015, the Massachusetts Office on Disability (MOD) was very proud to receive an Award of Excellence from the Commonwealth's Operational Service Division for MOD exceeding the Supplier Diversity Program minority and woman-owned businesses spending benchmarks for state fiscal year 2014. The Supplier Diversity Program, located within Massachusetts state agency Operational Services Division, oversees access and opportunity in state procurement for the Commonwealth of Massachusetts. MOD hopes to do even better next year.



MOD Director David D'Arcangelo and Assistant Director for Administration and Finance Michael Dumont accepting the award at the Hall of Flags in the State House

## MOD Plans 2015 Disability Summit: *The ADA at 25*

The Massachusetts Office on Disability will be hosting a Disability Summit and breakfast on September 18, 2015. This is

the first of what is intended to be an annual event and we are very excited about it. The theme of the summit is "The ADA at 25" with speakers addressing their past, present,



and future work as it relates to specific ADA topics. Disability Summit 2015 will be held at the Boston Convention and Exhibition Center, 415 Summer Street, Boston, MA 02210. Contact MOD at 617-727-7440 or <a href="MOD-Events@state.ma.us">MOD-Events@state.ma.us</a> for more event information.

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# International Disability Professionals Visit MOD

Bv Rita DiNunzio

MOD had the pleasure of welcoming professionals from the international disability community this past summer. MOD was visited on two separate occasions by leaders in disability policy and Independent Living from both Canada and South Korea through the U.S. Department of State's International Visitor Leadership Program (IVLP). This professional exchange program connects foreign leaders in various fields to their American counterparts through short-term visits to the United States.

The Canadian group included staff from the Manitoba Disabilities Issues Office and the Canadian Centre on Disability Studies. The South Korean group was comprised of representatives from the Republic of Korea's Policy and Support for the Disabled project and the Seoul Center for Independent Living among others. MOD had the opportunity to spend a couple of hours

with our guests and exchange our interests, goals, and ideas on disability policy. The Seoul team left us with an old Korean saying, "People connect even with the slightest bruing of clothes."



the slightest brushing of clothes " MOD Staff with South Korean IVLP Participants

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